

**IN THE UNITED STATES BANKRUPTCY COURT  
FOR THE DISTRICT OF DELAWARE**

<hr style="border-top: 1px solid black;"/> <div style="display: flex; justify-content: space-between;"><div>In re:</div><div>:</div></div> <div style="display: flex; justify-content: space-between;"><div>DEPARTMENT 13, INC.,</div><div>:</div></div> <div style="display: flex; justify-content: space-between;"><div>Debtor.</div><div>:</div></div>	<div style="display: flex; justify-content: space-between;"><div>:</div><div>Chapter 7</div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div>Case No. 23-10691-CTG</div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div>Re: D.I. 18</div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div><b>Hearing Date: July 13, 2023 @ 2:30</b></div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div><b>p.m. ET</b></div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div></div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div><b>Obj. Deadline: July 6, 2023 @ 4:00</b></div></div> <div style="display: flex; justify-content: space-between;"><div>:</div><div><b>p.m. ET</b></div></div>
---	--

---

**OPPOSITION OF THE CHAPTER 7 TRUSTEE TO MOTION BY  
GENGHISCOMM HOLDINGS, LLC AND MR. STEVE SHATTIL FOR AN  
ORDER GRANTING RELIEF FROM THE AUTOMATIC STAY AS TO THE  
TEXAS ACTION**

George L. Miller, Chapter 7 Trustee (“Trustee”) for the bankruptcy estates for the above-captioned debtors, by and through his undersigned counsel, files this opposition to the *Motion by Genghiscomm Holdings, LLC and Mr. Steve Shattil for an Order Granting Relief from the Automatic Stay as to the Texas Action* [D.I. 18] (the “Motion”)<sup>1</sup>, and in support hereof states as follows:

**BACKGROUND**

1. This Court has jurisdiction over this Motion pursuant to 28 U.S.C. §§ 157 and 1334. This is a core proceeding pursuant to 28 U.S.C. § 157(b)(2). Venue is proper pursuant to 28 U.S.C. § 1409(a).

2. On May 31, 2023, (the “Petition Date”), the Debtor filed a voluntary petition for

---

<sup>1</sup> All capitalized terms not otherwise defined herein shall have the meanings ascribed to them in the Motion.

relief under Chapter 7 of the Bankruptcy Code and the Trustee was appointed as Chapter 7 Trustee for the Debtor's estate.

3. The initial 341 Meeting of Creditors was held on June 23, 2023, and was continued to September 14, 2023, due to the need for the Debtor to provide additional documentation requested by the Trustee. *See* D.I. 6 and 15.

4. On June 29, 2023, Movants filed the Motion.

### **OBJECTION**

5. Movants seek relief from stay to proceed with the Texas Action against, among others, the Debtor. The Texas Action concerns an alleged breach by the Debtor of certain alleged patent license agreements by the Debtor. *See* Motion, ¶10, **Exhibits B and C**.

6. The Trustee objects to the Motion as premature. While the Texas Court in the Texas Action ordered that Movants file the Motion on or before July 2, 2023, the fact remains that the Debtor's case was filed on May 31, 2023, the Debtor's Schedules and Statement of Financial Affairs were filed on June 14, 2023, and the 341 meeting will not be concluded until at least September 14, 2023.

7. The Motion provides that Movants request entry of the Proposed Order (i) clarifying that under 362(a)(1), the stay only applies only to actions *against* the debtor, not D13's counterclaims or third party claims and (ii) modifying the automatic stay to grant relief from the stay so that the Texas Action can proceed to judgment, (iii) and a waiver of the fourteen (14) day stay pursuant to Federal Rule of Bankruptcy Procedure 4001(a)(3). Motion, p. 20.

8. Due to the recent filing of the Debtor's case, the Trustee has not had an opportunity to fully assess the assets of the Debtor's estate, nor does he have sufficient information at this time related to the patents at issue, and the PLA or TPA.

9. Moreover, Movants: (i) filed the Motion without contacting the Trustee to discuss the issues prior to the filing of the Motion; (ii) waited until 27 days after the issuance of the Order in the Texas Action leading into a holiday weekend to file the Motion; and (iii) forced the Trustee to rush to obtain counsel to defend the Motion to meet the July 6, 2023 objection deadline.

10. The Trustee respectfully requests that the Motion be denied without prejudice, or the hearing be continued to a date that is at least two weeks following the conclusion of the 341 meeting to allow for the Trustee to conduct and conclude his examination of Debtor's representative (s) at the 341 meeting, assess the assets of the Debtor's estate, and the counterclaims and defenses being asserted by the Debtor in the Texas Action.

11. There is no prejudice to the Movants in continuing the hearing on the Motion to allow the Trustee to investigate and also conclude his assessment of the claims and the assets of the Debtor. *See In re Rexene Prods., Co.*, 141 B.R. 574 (Bankr. D. Del. 1992). Movants have also complied with the Order issued by the Texas Court in the Texas Action by filing the Motion by the July 2, 2023 deadline set and can provide status updates to the Texas Court as needed or required.

WHEREFORE, based on the foregoing, the Trustee respectfully requests that the Court denies the Motion without prejudice, or continue the hearing on the Motion to give the Trustee an opportunity to conclude the 341 meeting of creditors and assess the claims prior to this Court considering the relief requested.

Dated: July 6, 2023  
Wilmington, Delaware

**CIARDI, CIARDI & ASTIN**

/s/ Daniel K. Astin

Daniel K. Astin (No. 4068)  
1204 N. King Street  
Wilmington, Delaware 19801  
Tel: (302) 384-9451  
[dastin@ciardilaw.com](mailto:dastin@ciardilaw.com)

-and-

Albert A. Ciardi, III, Esquire  
Walter W. Gouldsbury III, Esquire  
(*Pro hac vice* forthcoming)  
1905 Spruce Street  
Philadelphia, PA 19103  
Tel: (215) 557-3550  
Fax: (215) 557-3551  
[aciardi@ciardilaw.com](mailto:aciardi@ciardilaw.com)  
[wgouldsbury@ciardilaw.com](mailto:wgouldsbury@ciardilaw.com)

*Proposed Attorneys for George L. Miller, Chapter  
7 Trustee*